

capability from its main studio.

26. When WXTM(FM) began broadcast operations, it had equipment to monitor its transmitter at the main studio.

27. When WXTM(FM) began broadcast operations, meter readings were taken at and transmitter log entries were made at the main studio.

28. When WXTM(FM) began broadcast operations, the station maintained a toll-free telephone line at the main studio for residents of Monticello.

29. On October 25, 1994, non-commercial station WJUX(FM) went off the air.

30. MMBI filed an application for a license to cover construction of the WXTM(FM) facility on October 31, 1994.

31. Turro served as the Chief Engineer of WXTM(FM).

32. Turro played a role in the construction of WXTM(FM).

33. Effective April 14, 1995, the call letters of WXTM(FM) were changed to WJUX(FM) (hereinafter, WJUX(FM) refers to the Monticello facility unless otherwise indicated).

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34. When or shortly after WJUX(FM), Monticello, began broadcast operations, it broadcast the Jukebox Radio format programming.

35. When or shortly after WJUX(FM), Monticello, began broadcast operations, Translator Station W276AQ(FM), Ft. Lee, New Jersey, carried the Jukebox Radio format programming broadcast over WXTM(FM).

36. Translator station W276AQ received WJUX(FM)'s signal over-the-air for rebroadcasting.

37. Weis and Turro shared equal ownership of translator station W232AL(FM), Pomona, New York.

38. Because Turro and Weis shared ownership of translator station W232AL, Pomona, New York, that station did not initially rebroadcast the signal of WJUX(FM), Monticello, New York when the station commenced broadcast operations.

39. As of January 10, 1995, Weis transferred his interest in translator station W232AL, Pomona, New York, to Turro.

40. After Weis transferred his interest in translator station W232AL, Pomona, New York, to Turro, that station began carrying the Jukebox Radio format programming.

41. Weis and Turro have other business relationships in addition to those already

000471

referenced herein.

42. Translator station W232AL, Pomona, New York, receives and rebroadcasts the signal of WJUX(FM).

43. WJUX(FM) receives its programming from BCCBF's Dumont studios via telephone lines.

44. Eugene Blabey is the General Manager of WJUX(FM).

45. Eugene Blabey is the owner and/or operator of WVOS (AM & FM), Liberty, New York.

46. Eugene Blabey is the full-time General Manager of WVOS (AM & FM).

47. Eugene Blabey represents WJUX(FM) in the community.

48. Eugene Blabey assesses community needs and programming responsive thereto for WJUX(FM).

49. Eugene Blabey produces programming for broadcast exclusively on WJUX(FM).

50. Eugene Blabey makes recommendations to Weis concerning the operation of WJUX(FM).

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51. Weis does not generally represent WJUX(FM) in the community.
52. Weis does not personally assess community needs and programming responsive thereto for WJUX(FM).
53. WJUX(FM)'s main studio is colocated with the main studios for WVOS (AM & FM).
54. WJUX(FM) leases space for its main studio from Mr. Blabey.
55. The main studio for WJUX(FM) is a former production room for WVOS.
56. Non-Jukebox Radio programming produced for WJUX(FM) is delivered to BCCBF's Dumont studio for inclusion in its programming feed.
57. Carol Montana is the Public Affairs Director of WJUX(FM).
58. Carol Montana is the full-time business manager of WVOS (AM & FM).
59. On April 13 and 14, 1995, Station WJUX(FM) was inspected by an FCC field engineer.
60. Weis was not present at WJUX(FM) during the FCC's inspection.

000473

61. At the time of the FCC inspection, WJUX(FM) did not have a dedicated telephone line for the public at the station's main studio.

62. At the time of the FCC inspection, calls from the public were not answered at WJUX(FM)'s main studio.

63. At the time of the FCC inspection, calls from the public to WJUX(FM) were routed to BCCBF's Dumont studios.

64. After the FCC inspection, a dedicated phone line for WJUX(FM) was installed at the station's main studio in Liberty, N.Y.

65. At the time of the FCC inspection, the WJUX(FM) transmitter was not controlled via remote control from the station's main studio.

66. At the time of the FCC inspection, the WJUX(FM) transmitter was controlled via remote control from BCCBF's Dumont studios.

67. At the time of the FCC inspection, transmitter operating readings and/or log entries for WJUX(FM) were not taken at the main studio.

68. At the time of the FCC inspection, transmitter operating readings and/or log entries for WJUX(FM) were made at BCCBF's Dumont studios.

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69. All of WJUX(FM)'s programming originates from BCCBF's Dumont studios.

70. All of the advertising broadcast over WJUX(FM) originates from BCCBF's Dumont studios.

71. BCCBF and/or Turro sells the advertising time sold on WJUX(FM).

72. A telephone line is used to deliver the audio programming from BCCBF's studios in Dumont to WJUX(FM)'s transmitter.

73. There have been interruptions in the delivery of Jukebox Radio programming from BCCBF's studios to WJUX(FM).

74. Interruptions in the delivery of programming to WJUX(FM) are reported to BCCBF in Dumont.

75. There have been interruptions in the broadcast operations of WJUX(FM) since it began broadcasting in 1994.

76. Interruptions in the broadcast operations of WJUX(FM) are reported to BCCBF in Dumont.

77. Translator station W276AQ continued to broadcast Jukebox Radio programming at times when there were interruptions in the delivery of programming from BCCBF's studios

to WJUX(FM).

78. Translator station W232AL continued to broadcast Jukebox Radio programming at times when there were interruptions in the delivery of programming from BCCBF's studios to WJUX(FM).

79. Translator station W276AQ continued to broadcast Jukebox Radio programming at times when there were interruptions in the broadcast operations of WJUX(FM).

80. Translator station W232AL continued to broadcast Jukebox Radio programming at times when there were interruptions in the broadcast operations of WJUX(FM).

81. MMBI receives funds on a monthly basis from BCCBF.

82. The funds received by MMBI from BCCBF are used to operate WJUX(FM).

83. Attachment II hereto is a true copy of a letter, and attachments thereto, from Weis, on behalf of MMBI, to Norman Goldstein, Chief, Complaints & Investigations Branch, Enforcement Division, FCC, dated July 27, 1995 (with a copy of the FCC letter to which it responds).

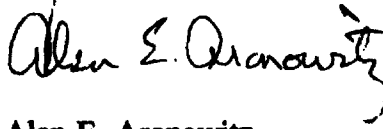
000476

84. MMBI was reimbursed by BCCBF and/or Turro for the costs of preparing the July 27, 1995, letter to the FCC.

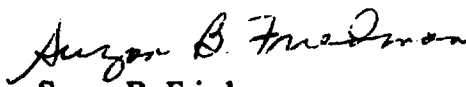
Respectfully submitted,  
Roy J. Stewart  
Chief, Mass Media Bureau



Norman Goldstein  
Chief, Complaints & Political Programming Branch



Alan E. Aronowitz  
Attorney



Suzan B. Friedman  
Attorney

Federal Communications Commission  
2025 M Street, N.W., Suite 8210  
Washington, D.C. 20554  
(202) 418-1430

June 6, 1997

000477



**ATTACHMENT I**

•  
**000478**

## Network Affiliation Agreement

Bergen County Community Broadcast Foundation (Network) and Monticello Mountaintop Broadcasting Inc. (MMBI) enter into this network affiliation agreement on OCT. 17, 1994. This agreement will commence at 12:01 AM, Oct. 1, 1994 and terminate at 12:01 AM, Oct. 1, 2004.

Network will provide MMBI with twenty-four hours of programming on a seven day basis, 365 days a year. Network will also provide all local station identifications (Legal ID's), public affairs programming, and Emergency Broadcast System tests.

Network agrees to indemnify MMBI and hold it harmless from any and all fines, surcharges, forfeitures, levies, and any other monetary damages imposed by the F.C.C.

Network is responsible for delivery of usable audio programming to MMBI via satellite, phone lines or other suitable means. Network is responsible for all costs incurred for delivering Network audio. Network will abide by all applicable FCC rules concerning program content.

Network will compensate MMBI for carrying all network programming on a twenty-four hour basis, as follows:

Year One - \$8,575.00 per month

Year Two - \$8,975.00 per month

Year Three - the first six months - \$9,140.00 per month

Year Three - the second six months - \$5,400.00 per month

Year Four - \$5,400.00 per month

Year Five - \$4,675.00 per month

Remaining 5 years - Year 5 plus 5% or the CPI, whichever is greater.

All payments are due and payable, in advance, on the first of the month. MMBI will provide Network with a ten day grace period after the first of the month.

The monthly compensation to MMBI will be reduced by \$3,600.00 per month after the first thirty months of network affiliation.

Both parties agree to abide by all applicable FCC rules and regulations.

MMBI agrees to allow translator W276AQ to rebroadcast 99.7 FM, Monticello New York.

This agreement will be binding to Network, its successors, assigns and/or transferees.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 17<sup>th</sup> day of OCTOBER, 19 94.

Signed, sealed and delivered  
in the presence of

Kathleen Kalyogh

Gerald Turro for Network

Wesley Wells for MMBI

STATE OF NEW JERSEY }  
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day  
of OCTOBER, 19 94 before me, the subscriber,  
a Notary Public of New Jersey, personally appeared  
Gerald Turro, Wesley Wells, who, I am satisfied,  
are the person(s) named in and who executed the within  
Instrument, and thereupon have acknowledged that they  
signed the same as \_\_\_\_\_ act and deed, for the uses and purposes  
therein expressed.

Kathleen Kalyogh  
Notary Public of N.J.

KATHLEEN KARYAOGU  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES SEPT. 15, 1998

**ATTACHMENT II**

**000481**

FCC MAIL SECTION

JUN 21 2 50 PM '95

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

JUN 21 1995

IN REPLY REFER TO:  
1800C1-SB/RW  
95020241

Monticello Mountaintop Broadcasting, Inc.  
Licensee, Station WJUX (FM), Monticello, NY  
11 Old Tappan Road  
Old Tappan, NJ 07675

Attn: Mr. Wesley R. Weis

Dear Licensee:

The Commission has received information raising questions concerning the ownership of Station WJUX (FM), Monticello, NY.<sup>1</sup> Specifically, it is alleged that the ownership and control of Station WJUX changed without prior authorization of the Commission, which may be a violation of Section 310 (d) of the Communications Act of 1934, as amended, and Sections 73.3540 and 74.14 of the Commission's Rules. It appears further that Station WJUX has: (1) violated Section 73.1125(a) of the Commission's Rules by failing to maintain a main studio within the station's principal community contour; (2) violated Section 73.1125 (c) of the Commission's Rules by failing to maintain a local or toll-free number for residents of Monticello, NY; and (3) violated Section 73.3526 (d) of the Commission's Rules by failing to maintain a public inspection file in the station's community of license.

The Commission has made no determination in this matter. So that we may be more fully informed, pursuant to Section 73.1015 of the Commission's Rules, please respond to the following questions.

1. According to our records, Monticello Mountaintop Broadcasting, Inc., has been the licensee of Station WJUX (FM) since October 14, 1994, and there has been no reported change in ownership since that time. If there has been a change in ownership or control of Station WJUX (FM), indicate whether you filed any applications for Commission authorization of the transfer and, if not, explain why not. If you filed such an application, please provide us with a stamped copy or some other evidence of the filing.
2. Has Mr. Gerard A. Turro, licensee of Station W276AQ, Ft. Lee, NJ, ever been the licensee of Station WJUX (FM) or otherwise held an ownership interest in the licensee of the station? If Mr. Turro is the licensee or has obtained such an ownership interest, state when the acquisition occurred and whether he continues to hold the license or such an ownership interest.

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<sup>1</sup>We note that WJUX (FM) changed call signs on April 14, 1995. Prior to this date the call sign was WXTM (FM). The call sign WJUX (FM) was previously assigned to Station WNJW (FM), Franklin Lakes, NJ, which is licensed to the Bergen County Community Broadcasting Foundation. Any reference to WJUX (FM) throughout this letter refers to the Monticello, NY, station.

000462

3. State who has provided any funds used to purchase equipment for and/or construct Station WJUX (FM). If such funds have been provided by any person or entity other than the licensee of Station WJUX (FM), or by any person or entity which has not previously been reported to the Commission as having an ownership interest in the licensee, identify all such persons or entities and state the specific amounts contributed by such other persons or entities and the specific equipment and/or construction expenses paid for with such contributions.

4. State whether any person or entity which has not previously been reported to the Commission as having an ownership interest in the licensee (a) has lent to the licensee funds used to purchase equipment or construct Station WJUX (FM), or (b) has guaranteed repayment of funds borrowed by the licensee for the purchase of equipment or construction of the Station. If so, provide details regarding such loans or guarantee arrangements.

5. For the period of time from October 18, 1994, to the present, identify by name, title, service dates, and employer,<sup>2</sup> the specific person or persons who participated in the following activities with respect to Station WJUX (FM):

- (a) controlled and had access to the Station's financial records and books;
- (b) prepared and kept the Station's financial records;
- (c) paid the Station's operating expenses;
- (d) prepared and signed the Station's checks;
- (e) paid rent for the studio;
- (f) paid rent for the antenna tower site or usage;
- (g) interviewed, hired, or fired Station personnel;
- (h) controlled what is or is not broadcast;
- (i) established or changed Station management;
- (j) controlled and had access to the Station's bank accounts; and
- (k) prepared and paid the Station's payroll, insurance, income and property taxes, withholding statements and social security obligations.

6. With respect to each person listed in response to subsections (a) through (k), state whether, at any time from the initiation of program test broadcasting to the present, such person was, during the same period that he/she was employed by Station WJUX, also employed by any other business. If so, state the name of the other business, location, the individual's responsibilities there, and the hours per week employed at the business while working also at WJUX.

#### Main Studio

7. Provide the following information with regard to the main studio of WJUX (FM):

- (a) State whether WJUX (FM) has a main studio. If so, provide the exact address of the main studio at all times since the main studio was first established;

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<sup>2</sup>By the use of the term employer in this and subsequent questions, we seek identification of the entity which employed and paid the salary of the identified individuals.

- (b) State the date (month and year) the main studio was established in each location listed in subsection (a);
  - (c) Provide contour maps showing the station's principal community contour, and pinpointing each location of the main studio listed in subsection (a) in relation to the station's principal community contour;
  - (d) State the reason for any change of location of WJUX (FM)'s main studio since the main studio was first established;
  - (e) State whether WJUX (FM) has ever been granted consent by the Commission to locate the station's main studio outside the principal community contour. If so, provide a dated copy of such Commission consent.
8. Provide copies of any internal corporate communications, news releases, and promotional materials concerning any main studio relocation occurring since the main studio was first established.
9. With regard to the functions performed at the main studio since the main studio was first established, provide the following information:
- (a) State the precise functions performed at the main studio;
  - (b) State whether the main studio has program origination capability (including any linkage from the studio to the transmitter), and, if so, describe in detail its technical facilities;
  - (c) Provide names, titles, employer, and responsibilities of personnel assigned to the main studio;
  - (d) State which of the personnel listed in response to subsection (c) are present at the main studio during regular business hours.
  - (e) With respect to each person listed in response to subsection (c), state whether, at any time from the initiation of program test authority to the present, such person was, during the same period that he/she was employed by Station WJUX, also employed by any other business. If so, state the name of the other business, location, the individual's responsibilities there, the hours per week employed at the business while working also at WJUX.
10. State the days and times during which the main studio has been open to the public since the main studio was first established, and when these hours were established.
11. Provide dated and executed copies of leases and insurance policies for each location of the main studio used since the main studio was first established.
12. If WJUX (FM) maintains an auxiliary studio, state;

- (a) The exact address of this studio since it was first established;
- (b) The date (month and year) this studio was established at each address listed in subsection (a);
- (c) The functions performed at this studio since it was first established;
- (d) Provide the names, job titles, employer, and responsibilities of personnel assigned to the auxiliary studio.

Public Inspection File

13. If WJUX (FM) maintains a public inspection file, state;

- (a) The exact location(s) of this file since the file was first established ;
- (b) The dates between which the public file, or a copy thereof, was maintained at each location listed in subsection (a)
- (c) The days and times during which the public file has been available for public inspection at each location where such a file has been maintained since the file was first established;
- (d) The name, business address, and job title of each person responsible for maintaining such public file since the file was first established; assessing what issues of community interest will be addressed by the station; determining how the community issues will be addressed; and maintaining the quarterly issues statement.

Local or Toll-Free Telephone Number

14. State WJUX (FM)'s main studio telephone number, between the time the main studio was first established and the present, including the area code, the date this number was connected, and whether this number is local or toll-free for the residents of Monticello, NY. Provide copies of telephone bills for this number from the time the number was first connected to the present.

Time Brokerage Agreements

15. State whether Station WJUX (FM) has entered into a management agreement, a time brokerage agreement, or any other agreement concerning ownership, staffing, programming, sales, or operation of Station WJUX (FM), or any other station. If the answer is in the affirmative, provide the following information:

- (a) Provide a signed and dated copy of the agreement;



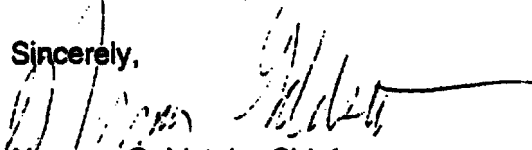
- (b) State whether the agreement is one that must be filed with the Commission pursuant to Section 73.3613 of the Commission's Rules. If so, state when this agreement was filed with the Commission. If not, explain.
- (c) State whether the agreement is one that must be kept in the station's public inspection file pursuant to Section 73.3526 of the Commission's Rules. If so, state when, and by whom, this agreement was placed in the station's public inspection file. If not, explain.

Programming

16. With regard to the programming of Station WJUX (FM), provide the following information:
- (a) Describe the nature of Station WJUX'S (FM) programming from October 18, 1994, to the present;
  - (b) Identify by name, title, service dates, and employer, the individual (s) who has established and changed the Station's programming policies from October 18, 1994, to the present;
  - (c) Provide signed and dated copies of any written communications concerning the Station's programming, including, but not limited to, memoranda, correspondence, and programming contracts, for the period from October 18, 1994, to the present.

So that we may be fully informed on these issues, we ask that you provide, within thirty (30) days of the date of this letter, all relevant information or documentation that is responsive to the foregoing or that you feel may be useful in helping the Commission make a determination in this matter. Failure to answer fully will constitute a violation under Section 73.1015 and may subject you to serious sanctions. Commission policy requires that responses to its inquiries be signed by an officer or director of the licensee organization.

Sincerely,

  
Norman Goldstein, Chief  
Complaints & Investigations Branch  
Enforcement Division  
Mass Media Bureau

000486

**MONTICELLO MOUNTAINTOP BROADCASTING, INC.**

**11 OLD TAPPAN ROAD  
OLD TAPPAN, NJ 07675**

**July 27, 1995**

**Mr. Norman Goldstein, Chief  
Complaints & Investigations Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554**

**Dear Mr. Goldstein:**

This is in response to your letter of June 21, 1995 concerning the operation of WJUX(FM), in Monticello, NY. According to that letter, it has been alleged that an unauthorized transfer of control of WJUX(FM) has occurred and that WJUX(FM) has (1) failed to maintain a main studio within the station's principal contours; (2) failed to maintain a local or toll-free number for residents of Monticello, NY, and (3) failed to maintain a public inspection file in its community of license. As shown in this response, those allegations are uniformly incorrect.

The responses to your specific inquiries are as follows:

1. Monticello Mountaintop Broadcasting, Inc. (Mountaintop) has been the permittee of WJUX(FM) since October 18, 1994.<sup>1</sup> The application for Commission consent to the assignment of the license of WJUX(FM) to Mountaintop was filed with the Commission on July 25, 1994 and there has been no change in ownership since that time. I have at all times owned all of the stock of Mountaintop.
2. Mr. Gerald A. Turro has never been the licensee or the permittee of WJUX(FM), nor has he otherwise held an ownership interest in the station. He has no right to acquire any such interest, and I have no intention to transfer any such interest to him.
3. As the sole owner of Mountaintop, I provided all of the funds used to purchase equipment and to construct WJUX(FM). I already had much of the necessary equipment -- processing equipment, racks, and transmission line -- on hand. Mr. Gerry Turro paid me \$40,000 on October 17, 1994, as an inducement to enter into the Network Affiliation Agreement discussed elsewhere in this letter. This was not a loan, and I have no obligation to repay those funds, which I applied toward my obligations to Mr. Larry Fishman, from whom I had acquired the construction permit for WJUX(FM) (BAPH-940725GR). The purchase price was \$120,000.
4. On October 6, 1994, my mother, Mrs. Marre C. Weis, lent me \$15,000 which I used to purchase equipment and to construct WJUX(FM). No other person has (a) lent funds used

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<sup>1</sup> The Mountaintop application for a license to cover its construction permit was filed on October 31, 1994 and remains pending.

000487

Mr. Norman Goldstein

July 27, 1995

Page Number 2

to purchase equipment or construct Station WJUX(FM) or (b) guaranteed repayment of funds borrowed for those purposes.

5. With the exceptions noted below, I have been the sole individual who:

- a. controlled and had access to the Station's financial records and books, with the exception that Mr. Gene Blabey, the General Manager of WJUX(FM), and Ms. Carol M. Montana, the WJUX(FM) public affairs director, have access to certain financial materials which they receive at the station and forward to me. Generally these consist of bills from various vendors.
- b. prepared and kept the Station's financial records, with the exception noted in response to 5(a), above. I am assisted in this matter by John Sheridan, my accountant, who performs certain book keeping and accounting functions for my various companies and for me personally.
- c. paid the Station's operating expenses, with the following exception: Until recently, the WJUX(FM) telephone bill was sent to and paid by Mr. Gerry Turro. This was due to an oversight, which is now being corrected. Funds paid to Mountaintop under the Network Affiliation Agreement are used to operate WJUX(FM).
- d. prepared and signed the Station's checks.
- e. paid rent for the Station's main studio.
- f. paid rent for the antenna tower site or usage.
- g. interviewed, hired and fired Station personnel, with the following exceptions: Mr. Blabey has from time to time interviewed potential employees and made recommendations to me as to whether they should be hired. On one occasion, he hired a local sales person for WJUX(FM), pursuant to my instructions. On another occasion, he hired an engineer on a temporary basis to turn the WJUX(FM) transmitter off and on during an FCC inspection so that the inspector could determine whether turning WJUX(FM) off impacted on the operations of a translator facility in Ft. Lee, New Jersey. Mr. Blabey also supervises Ms. Carol Montana. At some time during the Fall of 1994, I asked Mr. Turro to interview an individual I was considering hiring as the station's chief engineer, to determine his qualifications. Nothing came of this, and I ultimately asked Mr. Turro to be the chief engineer, a position which he accepted and held until May 1, 1995.
- h. controlled what is or is not broadcast, in accordance with the terms of the October 17, 1994 Network Affiliation Agreement with Bergen County Community Broadcast Foundation, subsequently amended retroactively to October 17, 1994.<sup>2</sup> It was my decision to enter into that Agreement which, I believe, preserves my ability to

000-438

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Mr. Norman Goldstein

July 27, 1995

Page Number 3

perform my duties as licensee of the station to no less extent than the many LMA's, network agreements, and brokerage agreements with which the Commission has found no fault. When counsel recommended the changes reflected in the amendment be made, to bring the Network Affiliation Agreement into full compliance with Commission policy, Mr. Turro and I agreed to make the changes reflected in the amendment.

- i. established or changed the Station's management.
- j. controlled and had access to the Station's bank accounts.
- k. prepared and paid the Station's payroll, insurance, income and property taxes, withholding statements and social security obligations, with the following exception: my accountant, John Sheridan, who also does accounting work for my other businesses, did work for me in connection with Mountaintop's taxes.

6. During the period since October 18, 1994, I have been employed by the following businesses, in each of which I have an ownership interest: MIKAB Corporation, a tower and antenna systems sales and service company; MIKAB Equipment Sales, a communications equipment sales company; New Jersey Tower Service, Inc., a tower erection company; Hilltop Tower Management, Inc., an antenna site management company; Mountain Top Communications, Inc., which is now dormant; L & W Engineering, Inc., a structural engineering company; and Morristown - Erie RR, a railroad. Mr. Blabey is the owner of radio station WVOS(FM), from which WJUX(FM) rents studio and transmitter site space. While not an "employee" of WVOS(FM), Mr. Blabey is its full time general manager. He is also an officer and director of three railroad companies, the Arkansas - Missouri RR, the Livonia, Avon and Lakeville RR, and the Ontario - Midland RR. Ms. Montana is employed as the full time business manager of WVOS(FM).<sup>3</sup>

7. WJUX(FM) has a main studio, located on Old Route 17, in Liberty, New York, at the WVOS(FM) main studio. The main studio has been there at all times since WJUX(FM) went on the air. A contour map showing WJUX(FM)'s principal community contour and demonstrating that the main studio is located within that contour is provided in the engineering statement at Attachment A. No Commission consent to the location of the WJUX(FM) main studio outside the WJUX(FM) principal contour has ever been requested.

8. There has been no such relocation.

9. a. The WJUX(FM) public inspection file is maintained at the WJUX(FM) main studio (a copy is also maintained at the public library in Monticello, New York). Mail received at the studio is forwarded to me. The WJUX(FM) telephone is answered there. The program Sullivan County People Who Make a Difference is recorded there.

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<sup>3</sup> Under Section 73.3555 of the Commission's Rules, WJUX(FM), WVOS(FM) and WVOS(AM) could lawfully be under common ownership, since the three stations constitute less than fifty percent of the eight radio stations in the market, as demonstrated in the attached engineering statement. Accordingly, the Commission's Cross Interest Policy does not preclude the concurrent employment of Mr. Blabey and Ms. Montana by the three stations. *Kern Broadcasting Corporation*, FCC 95-214, released June 16, 1995.

Mr. Norman Goldstein

July 27, 1995

Page Number 4

A remote control point for the WJUX(FM) transmitter is located there. The WJUX(FM) General Manager and public affairs director have their offices at the main studio, and are present there during normal business hours (9:00 a.m. - noon and 1:00 p.m. - 5:00 p.m., Monday - Friday).

b. The WJUX(FM) main studio has program origination capability using the facilities depicted in the attached engineering statement. Linkage between the main studio and transmitter is via phone line. The transmitter can be activated and deactivated from the remote control point at the main studio.

c. As noted above, Mr. Blabey is the WJUX(FM) general manager, and Ms. Montana is the WJUX(FM) public service director. Their duties and other employment are as described in response to questions 5 and 6, above. In addition, Mr. Blabey is responsible for the production of Sullivan County People Who Make a Difference, a tape of which he forwards to Mr. Turro to include in the network feed for WJUX(FM). He also helps to represent WJUX(FM) in the community, by attendance at Chamber of Commerce and other such meetings, and makes recommendations to me with respect to the operation of WJUX(FM). He and Ms. Montana perform such other duties as arise from time to time. For example, personnel at the Monticello Public Library were, on one occasion, unable to locate the WJUX(FM) public inspection file. Mr. Blabey went to the library and showed them its location. He and Ms. Montana also take documents to the library for inclusion in the public file.

d. Both Mr. Blabey and Ms. Montana are generally present at the WJUX(FM) main studio during normal business hours.

e. Information concerning the other employment held by Mr. Blabey and Ms. Montana is provided in response to question 6, above.

10. The WJUX(FM) main studio has been open to the public during normal business hours since WJUX(FM) went on the air, on October 21, 1994.

11. Copies of the requested leases and insurance policies are provided in Attachment B to this response.

12. WJUX(FM) has no auxiliary studio.

13. a & b. The WJUX(FM) public inspection file has been maintained at the WJUX(FM) main studio and at the public library in Monticello, New York since before WJUX(FM) went on the air.

c. The WJUX(FM) public inspection file has been available for public inspection during normal business hours at both locations.

d. Mr. Blabey, assisted by Ms. Montana, maintains the WJUX(FM) public inspection file. I send them copies of documents to place in the file, including annual employment reports, annual ownership reports, and the like. Mr. Blabey, who represents WJUX(FM) in the community, is instrumental in assessing community needs and in deciding how WJUX(FM) will respond to them through its program Sullivan County People Who Make a Difference. The WJUX(FM) quarterly issues statements

Mr. Norman Goldstein  
July 27, 1995  
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are initially prepared by Mr. Turro, and after I review them, they are placed in the WJUX(FM) public inspection file.

14. The WJUX(FM) main studio telephone number is (914) 292 0751, which is a toll free number for residents of Monticello. The telephone number was established on or about November 2, 1994. Copies of the requested telephone bills for this number are provided in Attachment C.

15. On October 17, 1994, WJUX(FM) entered into a Network Affiliation Agreement with Bergen County Community Broadcast Foundation. It was thereafter amended retroactively to October 17, 1994. A copy of the agreement, as amended, is provided in Attachment D. It is not among the types of agreement required by Section 73.3613 of the Rules to be filed with the Commission, nor is it among the type of agreements required by Section 73.3526 to be maintained in the WJUX(FM) public inspection file. In that connection, while Section 73.3613 requires that Television network affiliation agreements and amendments thereto be filed with the Commission, there is no similar requirement with respect to radio network affiliation agreement. In addition, Section 73.3526(a)(1) appears to exempt commercial network affiliation, syndication, and program supply contracts from any requirement of inclusion in a radio station's public inspection file. While Section 73.3526(a)(12) does require that copies of "every agreement or contract involving time brokerage of the licensee's station . . ." be maintained in the station's public inspection file, I do not believe that the subject Network Affiliation Agreement is an "agreement or contract involving time brokerage."

16. Since going on the air on October 21, 1994, WJUX(FM) has had a "jukebox radio" format, consisting of big band music and other music of the 1930s, 1940s and 1950s, provided by Bergen County Community Broadcast Foundation. I am solely responsible for WJUX(FM)'s programming policies, and for the decision to enter into the Network Affiliation Agreement pursuant to which programming is delivered to WJUX(FM). I am not aware of any documents responsive to Question 6 which are not being provided in response to other questions in your June 21, 1995 letter.

I have known Mr. Turro for many years, and was aware of his desire to provide a network programming service at the time when I was considering purchasing the construction permit for WJUX(FM). I believed that the station, operated as an affiliate of Mr. Turro's proposed network, would be economically viable, and that is why I went forward with the project.

In the event that additional information is needed in connection with your inquiry, please contact me.

Very truly yours,

000491

  
Wesley R. Weis

# **ATTACHMENT A**

## **Engineering Statement**

**000432**

**CARL T. JONES**  
**CORPORATION**

**STATEMENT OF HERMAN E. HURST, JR.  
REGARDING WJUX(FM), MONTICELLO, NEW YORK  
CHANNEL 259A -- 6.0 kW ERP -- 91 m HAAT**

**Prepared for: Monticello Mountaintop Broadcasting, Inc.**

**I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.**

**This office has been authorized by Monticello Mountaintop Broadcasting, Inc. ("Mountaintop") to prepare this statement and the associated figures in technical support to the response to FCC letter dated June 21, 1995 concerning the operation of WJUX(FM).**

**Hypothetical Radio Market**

**Mountaintop is the present licensee of WJUX(FM), Monticello, New York. Under Section 73.3555 of the Commission's Rules, WJUX(FM), WVOS-FM and WVOS(AM) [both licensed to Liberty, New York], could lawfully be under common ownership because the three stations constitute less than fifty percent of the hypothetical radio market formed pursuant to FCC Rules.**

**Figure 1, attached, depicts the hypothetical radio market. Pursuant to Section 73.3555(a)(3)(ii), the hypothetical radio market is defined as the total area covered by the**

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**STATEMENT OF HERMAN E. HURST, JR.**  
**PAGE 2**

principal community contours of WVOS-FM, WVOS(AM) and WJUX(FM). As shown in Figure 1, the radio market would be defined by the WVOS-FM principal community contour with the exception of a small area to the north which is defined by the WVOS(AM) principal community contour.

For the FM stations considered herein, the principal community contour is the predicted 3.16 mV/m (70 dBu) contour computed in accordance with Section 73.313 of the FCC Rules. For the AM stations considered herein, the principal community contour is the predicted daytime 5.0 mV/m groundwave contour computed in accordance with Section 73.183 of the FCC Rules. All AM and FM facilities represented herein are operating commercial radio stations.

The principal community contours of at least 5 commercial radio stations (in addition to the three subject stations) are predicted to overlap all or a portion of the proposed radio market. The transmitter sites of the 8 commercial radio stations are plotted on Figure 1. For the stations with transmitter sites located within the hypothetical radio market, only the transmitter sites are plotted. For the stations with transmitter sites located outside the hypothetical radio market, the transmitter site and the portion of the principal community contour which intersects the radio market is also plotted and keyed on Figure 1. The Key to Figure 1 contains each station's call sign, city of license, state, channel of operation, technical facilities, and geographical coordinates.